

State of California
BOARD OF EQUALIZATION

ALCOHOLIC BEVERAGE TAX REGULATIONS

Regulation 2553. LOSSES RESULTING FROM DISASTER, VANDALISM, MALICIOUS MISCHIEF, OR INSURRECTION.

Reference: Section 32407, Revenue and Taxation Code.

(a) IN GENERAL. An amount equal to the state alcoholic beverage taxes included in the sales price of beverages to the licensee shall be refunded by the Board if:

(1) The beverages are lost, rendered unmarketable, or condemned by a duly authorized official by reason of fire, flood, casualty, or other disaster, or by reason of breakage, destruction, or other damage resulting from vandalism, malicious mischief, or insurrection;

(2) The beverages were held and intended for sale at the time of the disaster or other damage;

(3) The disaster or damage occurred in this state;

(4) The licensee has not and will not be compensated, by insurance or otherwise, for the loss in the amount of the tax included in the purchase price paid for the beverages;

(5) The disaster or other loss occurred on or after April 1, 1980;

(6) The amount to be refunded with respect to a single disaster or other loss is two hundred fifty dollars (\$250) or more; and

(7) A claim for refund is filed with the Board within six months after the date on which the beverages were lost, rendered unmarketable, or condemned by a duly authorized official.

The refund shall be made to the licensee holding the beverages for sale at the time of the loss, and no interest shall be paid on the amount refunded. No refund shall be made with respect to losses resulting from theft.

(b) CLAIMS FOR REFUND. A claim for refund under this regulation must be in writing and must state all of the facts upon which the claim is based, including the type and date of occurrence of the disaster or other cause of loss and location of the beverages at the time. The claim must specify the amount of the state tax included in the purchase price paid for the beverages lost, rendered unmarketable, or condemned and contain a certification under penalty of perjury that such amount has not and will not be compensated by insurance or otherwise. The claim must be accompanied by a record of the inventory of the beverages lost, rendered unmarketable, or condemned showing the size and number of containers of each kind of beverage and the total wine gallons of each kind of beverage.

(c) PROOF OF LOSS. Claims for refund under this regulation will be approved only upon proof satisfactory to the Board that the beverages were destroyed or so damaged that they could not be sold. In the case of beverages lost due to a disaster or other specified cause the claim must be supported by inventory records, purchase invoices, container labels, settled insurance claims, or similar evidence which establishes the quantity and kind of beverages lost. In the case of beverages which are rendered unmarketable or condemned, but not lost, the claim must be supported by evidence that the beverages were destroyed under the supervision of a state or federal official responsible for witnessing such destruction. Proof of refund of federal alcoholic beverage taxes pursuant to the disaster, vandalism, or malicious mischief loss provisions of 26 United States Code Section 5064 will constitute proof of loss satisfactory to the Board.

History: Adopted April 9, 1980, effective June 19, 1980.